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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,037	11/18/2003	David F. Bantz	YOR920030474	5566

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IBM CORPORATION, T.J. WATSON RESEARCH CENTER
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EXAMINER

LANIER, BENJAMIN E

ART UNIT	PAPER NUMBER
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2132

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/716,037	Applicant(s) BANTZ ET AL.	
	Examiner Benjamin E. Lanier	Art Unit 2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-14 and 16-28 is/are rejected.
- 7) ☒ Claim(s) 9, 15 and 29 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claim 22 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 22 does not include claim limitations that further limit claim 19.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 16-29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed subject matter is directed towards a system with undefined means and an article of manufacture that is likewise undefined. The specification discloses that the claimed invention can be implemented in a software only environment (page 5, lines 2-5). "Functional descriptive material consists of data structures and computer programs which impart functionality when employed as a computer component" (MPEP 2106). When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claim Rejections - 35 USC § 103

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-8, 10-14, 16-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pham, U.S. Publication No. 2003/0097591, in view of Griffiths, U.S. Patent No. 6,014,698.

Referring to claims 1, 16, 19, 22, Pham discloses a website verification system wherein the URL of a requested website is transmitted to a security system ([0045]), which meets the limitation of intercepting a web access request from a user, directing the request to an authentication computer. Pham discloses that the URL of the requested website is transmitted to the security system, but does not specify whether the URL includes the IP address of the website or the domain name of the website. Griffiths discloses using the IP address of the website in the URL instead of the domain name (Col. 19, lines 7-23). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the IP address of the requested website in the URL submitted to the security system in order to speed up the process by avoiding the need to use the Domain Name System to convert the domain name to its exact IP address as

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taught by Griffiths (Col. 19, lines 12-20). The security system accesses a database, and checks the received URL against the sites in the database ([0045]). The security system verifies whether the requested site is directed to a virus site ([0045]). Pham discloses that if the website is determined not to be directed to a virus site, then the user load of the requested website is allowed ([0045]), which meets the limitation of directing said web access request to said target website if positive. However, if the website is directed to a virus site, then the user is informed (Figure 6) and the website load is cancelled ([0045]), which meets the limitation of receiving a report from said authentication computer. Pham does not specify that a notification is given to the user if the website is not found to be a virus site. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a positive notification to the user that the website has passed the tests of the security system that way the user knows that the tests actually occurred.

Referring to claims 2, 20, Pham discloses that different types of security can be selected for website verification ([0029] & [0044]). Once type of security allows for the user to load the website while verification is occurring ([0045]), which meets the limitation of directing an override request to said user, and directing said web access request to said target website when said user exercises an override option.

Referring to claims 3, 21, Pham discloses that if the website is determined not to be directed to a virus site, then the user load of the requested website is allowed to continue ([0045]), which meets the limitation of directed said web access request to said target website without input from said user. Pham does not specify that a notification is given to the user if the website is not found to be a virus site. However, it would have been obvious to one of ordinary

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skill in the art at the time the invention was made to provide a positive notification to the user that the website has passed the tests of the security system that way the user knows that the tests actually occurred.

Referring to claims 4, 5, 10, 11, 24, 25, Pham discloses a website verification system wherein the URL of a requested website is transmitted to a security system ([0045]). The security system accesses a database, and checks the received URL against the sites in the database ([0045]). The security system verifies whether the requested site is directed to a virus site ([0045]), which meets the limitation of comparing said target website with previously stored target websites/a list of suspect websites. Pham discloses that the URL of the requested website is transmitted to the security system, but does not specify whether the URL includes the IP address of the website or the domain name of the website. Griffiths discloses using the IP address of the website in the URL instead of the domain name (Col. 19, lines 7-23). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the IP address of the requested website in the URL submitted to the security system in order to speed up the process by avoiding the need to use the Domain Name System to convert the domain name to its exact IP address as taught by Griffiths (Col. 19, lines 12-20).

Referring to claims 6, 12, 26, Pham discloses that the security system contains a web crawler routine that fetches web pages from the requested website to check for viruses ([0029]), which meets the limitation of comparing behavior of the computer of said target website with a criterion of acceptability. Pham discloses that the URL of the requested website is transmitted to the security system, but does not specify whether the URL includes the IP address of the website or the domain name of the website. Griffiths discloses using the IP address of the website in the

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URL instead of the domain name (Col. 19, lines 7-23). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the IP address of the requested website in the URL submitted to the security system in order to speed up the process by avoiding the need to use the Domain Name System to convert the domain name to its exact IP address as taught by Griffiths (Col. 19, lines 12-20).

Referring to claims 7, 13, 27, Pham discloses that the fetched web pages are examined for viruses using a virus database ([0029]), which meets the limitation of comparing received data from said target website with corresponding stored data.

Referring to claims 8, 14, 28, Pham discloses that the security system during its evaluation of the requested website will automatically download files that include program code that would typically be run or launched by a browser program, such as Java, Active X, or object code (.exe) files, and scanned for viruses ([0041]), which meets the limitation of sending incorrect data to said target website and comparing data received from said target website in response to said incorrect data with corresponding stored data because the method by which the security system obtains the files in question is not the convention (i.e. typical) method of acquisition and can be considered "incorrect".

Referring to claim 17, Pham discloses that the user request is transmitted from the user system to the security system (Figure 1 & [0021] & [0044]-[0045]). Pham does not specify any means with the individual users system for intercepting and directing web access requests. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the user systems described in Pham to contain means to intercept web access

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requests and ultimately direct the web access requests to the target website so that the end user does not have to wait for the security system to process every single web access request.

Referring to claim 18, Pham discloses that the user request is transmitted from the user system to the security system (Figure 1 & [0021] & [0044]-[0045]), which meets the limitation of said means for intercepting a web access request and said means for directing said web access request to said target website are located centrally in a network containing a plurality of workstations of individual users.

Allowable Subject Matter

7. Claims 9, 15, 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose or make obvious verification of websites by distributing a denial of service attack to the target website and measuring the websites ability to respond to the large amount of transaction requests based upon a threshold value.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Currie, U.S. Publication No. 2003/0188194

Wagner, U.S. Patent No. 6,085,224

Rosenberg, U.S. Patent No. 7,114,177

Thomsen, U.S. Patent No. 6,745,333

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Lalonde, U.S. Patent No. 7,072,944

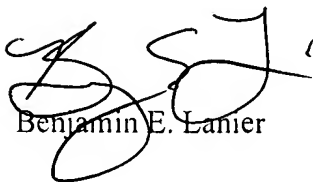
Alagna, U.S. Publication No. 2004/0123157

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin E. Lanier whose telephone number is 571-272-3805.

The examiner can normally be reached on M-Th 7:30am-5:00pm, F 7:30am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Benjamin E. Lanier